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ONE HUNDRED SIXTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON GOVERNMENT REFORM

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April 14, 2000

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### BY FACSIMILE

The Honorable Jacob J. Lew  
Director  
Office of Management and Budget  
Washington, D.C. 20503

Dear Director Lew:

This letter follows up on the April 12, 2000 hearing of the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs, entitled "Reinventing Paperwork?: The Clinton-Gore Administration's Record on Paperwork Reduction." As discussed during the hearing, please respond to the attached followup questions for the record.

Please hand-deliver the agency's response to the Subcommittee majority staff in B-377 Rayburn House Office Building and the minority staff in B-350A Rayburn House Office Building not later than noon on Friday, May 5, 2000. If you have any questions about this request, please call Professional Staff Member Barbara Kahlow on 226-3058. Thank you for your attention to this request.

Sincerely,



David M. McIntosh

Chairman

Subcommittee on National Economic Growth,  
Natural Resources, and Regulatory Affairs

Attachment

cc: The Honorable Dan Burton  
The Honorable Dennis Kucinich

Q1. OMB's Passive Role in Paperwork Reduction

a. On December 6, 1999, the Subcommittee asked 28 departments and agencies to identify any specific paperwork reduction candidates added by the Office of Management and Budget (OMB) during a six-month period in 1999 (from July 1st to December 31st). The agencies reported no candidates added by OMB from the 7,563 possibilities. Why should Congress continue to fund OMB's Office of Information and Regulatory Affairs (OIRA), which was established by the Paperwork Reduction Act (PRA) of 1980?

b. On December 6, 1999, the Subcommittee asked 28 agencies to identify any substantive changes in agency PRA submissions made by OMB during the same six-month period in 1999. The Subcommittee analyzed the agency replies by reviewing OMB's actual PRA dockets. The result was that OMB only made three substantive changes, which resulted in a trivial amount of burden reductions -- a mere 1,915 hours. Why has OIRA during the Clinton Administration taken such a passive role in stopping burdensome paperwork proposals which exceed specific statutory prescriptions? Again, why should Congress continue to fund OMB's OIRA, which was established by the PRA of 1980?

c. Since President Clinton's regulatory reviews Executive Order 12866 specifies certain disclosure requirements for OIRA to follow "to ensure greater openness, accessibility, and accountability in the regulatory review process," including revealing changes made by OMB during the course of OMB's review, why is OIRA resisting the Subcommittee's request to disclose OMB's role in its review of agency paperwork submissions?

Q2. Transfer of OMB FTEs to IRS for Paperwork Reduction

The Internal Revenue Service (IRS) accounts for nearly 80 percent of the total government-wide paperwork burden on the American public. Even after the Subcommittee's April 15, 1999 hearing, on March 24, 2000, OMB replied that it continued to only have one staff member devoted part-time to work with the IRS on burden reduction initiatives and to review IRS paperwork submissions for OMB PRA approval. Why hasn't OMB increased its staffing devoted to IRS paperwork? And, what changes did OMB make in IRS's December 1999 proposed ICB submission to reduce paperwork burden in 2000? If none, why, especially after the Subcommittee's April 15, 1999 hearing and its extensive correspondence with OMB since then?

Q3. Top 60 Most Burdensome Paperwork. Sixty of the most burdensome paperwork requirements - each totaling over 10 million hours of the public's time - equal 85 percent of the total government-wide burden on the public. These 60 include some that are ripe for review and some that have not been reviewed at all during the two Clinton-Gore terms. For example, OMB's docket for the 12th biggest, imposing nearly 80 million hours on the regulated public - Labor's Process Safety Management (PSM) of Highly Hazardous Chemicals - indicates many public complaints with the paperwork and many public recommendations for change. A second example is FDA's Investigational New Drug (IND) Regulations - the 40th biggest, imposing over 17 million hours on the regulated public. OMB's docket shows no changes in paperwork for this FDA

requirement during the two Clinton-Gore terms. Which of the 60 are being targeted by OMB for reduction in the rest of the Clinton Administration? Has OMB considered awarding a contract for an analysis of opportunities for reduction in these 60 paperwork requirements? If not, will OMB do so? Please provide for the hearing record the dates of the last substantive revision of each of the top 60 and the number of hours reduced as a result of that revision effort. Please do not include any adjustments (e.g., correction re-estimates of burden or changes in use not due to an affirmative agency action) in the number of hours reduced. Please indicate this information in the attached chart.

Q4. OMB's Falsely-Claimed Paperwork Reduction Accomplishments

- a. In an appendix to this year's Information Collection Budget (ICB) report to Congress, OMB admits at least 710 violations of the PRA; last year OMB reported 872 violations. What is OMB's estimate for the total number of hours of paperwork associated with the violations last year and this year -- paperwork unlawfully imposed on the public without valid OMB PRA approval? Please provide for the hearing record OMB's estimated paperwork hours for each of this year's 710 violations. If OMB is unable to provide this information for any specific violation, please explain the precise circumstances that prevent OMB from estimating the paperwork burden hours caused by the violation.
- b. OMB's earlier government-wide paperwork reduction accomplishment estimates for the Clinton-Gore Administration were inflated, erroneously counting as reductions both agency re-estimates of burden and illegal forms in current use. What are OMB's estimates for the "corrected" government-wide paperwork burden in FY 1996, 1997, 1998 and 1999 -- i.e., corrected to no longer count violations of law and adjustments as program changes?
- c. When OMB established its paperwork accounting system, OMB made annual adjustments to the paperwork hours base, a practice that discouraged the false counting of re-estimates or illegal burdens as reductions. When did OMB change its accounting system approach to no longer make annual adjustments and why did it do so?

Q5. Sanctions for Violations for the Paperwork Reduction Act. OMB's just-issued ICB report identifies for each illegal agency information collection the date when its OMB approval, if any, expired. Incredibly, four illegal collections still in use date from 1978 to 1989, i.e., from 11 to 22 years ago. For example, the State Department's "Statement of Non-Receipt of Passport" dates back to 1978. Should Congress consider sanctions for agency policy officials who knowingly and repeatedly violate the PRA or who do not promptly correct violations of law? If not, what does OMB recommend?

Q6. OMB's Absence of Crosscutting Impacts Analyses.

- a. Small Businesses. Since OMB's standard form [OMB 83-1] for agencies to request PRA approval includes a question if small entities will be burdened [#5] (in other words, since this information is readily available to OMB), has OMB prepared a crosscutting

analysis of paperwork burdens on small businesses? If not, why not? And, what specific paperwork reduction candidates is the Clinton Administration pursuing for small businesses?

b. State and Local Governments. Since OMB's standard form [OMB 83-I] for agencies to request PRA approval includes a question if State and local governments will be burdened [#11f] (in other words, since this information is readily available to OMB), has OMB prepared a crosscutting analysis of paperwork burdens on this sector? If not, why not? And, what specific paperwork reduction candidates is the Clinton Administration pursuing for State and local governments?

Q7. Regulatory Compliance Paperwork. What proportion of all paperwork imposed is for regulatory compliance [OMB 83-I, question #15g]? What specific paperwork reduction candidates is the Clinton Administration pursuing to reduce regulatory compliance burdens on the public? in Labor? in Transportation? in EPA? in the FTC?

**60 Most Burdensome Federal Reporting Requirements: OMB's March 3, 2000 Inventory**  
(each imposing more than 10,000,000 hours & in rank order)

<b>Burden Hours</b>	<b>Agency</b>	<b>Paperwork Title</b>	<b>Agency Form No.</b>	<b>Date of Last Substantive Revision</b>	<b>No. of Burden Hours Reduced</b>
1,407,159,909	Treas./IRS	US Individual Income Tax Returns	1040		
1,121,260,697	Treas./IRS	US Partnership Return of Income, etc.	1065		
480,611,258	Treas./IRS	US Corporation Income Tax Return for a Personal Service Corporation (PSC), etc.			
466,602,460	Treas./IRS	US Income Tax Return for an S Corporation			
342,445,121	Treas./IRS	US Income Tax Return for Estates & Trusts	1041		
315,006,691	Treas./IRS	Employer's Quarterly Federal Tax Return	941		
298,367,500	Treas./IRS	Depreciation & Amortization	4562		
252,727,147	Treas./IRS	US Individual Income Tax Returns	1040A		
116,007,429	Treas./IRS	Employee's Withholding Allowance	W-4		
105,621,392	Treas./IRS	Estimated Tax for Individuals	1040-ES		
83,462,111	Treas./IRS	Sales of Business Property	4797		
79,045,232	DOL/OSHA	Process Safety Management (PSM) of Highly Hazardous Chemicals			
69,927,555	Treas./IRS	Third-Party Disclosure Requirements			

Burden Hours	Agency	Paperwork Title	Agency Form No.	Date of Last Substantive Revision	No. of Burden Hours Reduced
57,169,160	DOT/FHWA	Controlled Substances & Alcohol Use & Testing			
54,979,533	Treas./IRS	Interest Income	1099-INT		
52,628,400	Defense	Acquisition Management			
44,100,662	HHS/HCFCA	Medicare/Medicaid Health Insurance Claims	1500, etc.		
42,418,697	Treas./IRS	Income Tax Return for Single & Joint Filers with No Dependents	1040EZ		
37,922,688	Treas./IRS	Taxation of Fringe Benefits			
36,322,800	Treas./IRS	Employee's Report of Tips to Employer	4070		
36,114,302	Treas./IRS	Certificate of Foreign Status of Beneficial Owner for US Tax Withholding, etc.			
32,481,414	Treas./IRS	US Corporation, Short-Form Income Tax	1120-A		
32,075,163	Treas./IRS	Employer's Annual Federal Unemployment (FUTA) Tax Return	940-EZ		
30,273,950	Treas./IRS	Records in General, under FICA, etc.			
29,402,969	Treas./IRS	Proceeds from Broker & Barter Exchanges	1099-B		
29,099,759	Treas./IRS	Dividends & Distributions	1099-DIV		
28,452,600	DOT/FHWA	Inspection, Repair, & Maintenance			

Burden Hours	Agency	Paperwork Title	Agency Form No.	Date of Last Substantive Revision	No. of Burden Hours Reduced
27,704,510	Treas./IRS	Annual Return/Report of Employee Benefit Plan, etc.			
26,761,200	Commerce	US Census 2000			
26,300,000	SEC	Records by Registered Investment Cos., etc.			
24,720,000	Treas./IRS	Withholding Certificate for Pension or Annuity Payments	W-4P		
23,986,320	Defense	Acquisition Solicitation			
21,660,000	Treas./IRS	Passive Activity Loss Limitations	8582		
20,761,187	Treas./IRS	Underpayment of Estimated Tax by Corporations	2220		
20,473,000	FTC	Truth in Lending			
19,736,544	Treas./IRS	Employer's Annual Federal Unemployment (FUTA) Tax Return	940		
19,404,319	Treas./IRS	Heavy Vehicle Use Tax Return	2290		
18,000,000	State/INS	Application for Immigrant Visa & Alien Registration	OF-230		
17,888,923	HHS/HCF A	Clinical Laboratory Improvement Amendments			

Burden Hours	Agency	Paperwork Title	Agency Form No.	Date of Last Substantive Revision	No. of Burden Hours Reduced
17,240,565	HHS/FDA	Investigational New Drug (IND) Regulations	1571, 1572		
16,955,465	Treas./IRS	Distributions from Pensions, Annuities, etc.	1099-R		
16,852,933	Treas./IRS	Miscellaneous Income	1099-MISC		
15,517,264	Treas./IRS	Child & Dependent Care Expenses	2441		
14,284,339	DOT/FHWA	Driver's Record of Duty Status			
13,701,349	DOL/ESA	OFCCP Recordkeeping & Reporting			
13,333,396	EPA/Water	Discharge Monitoring for NPDES			
13,280,000	Treas./IRS	Education Credits, Hope & Lifetime Credits	8863		
13,099,985	Treas./IRS	IRA Contribution Information	5498		
13,020,000	Justice/INS	Employment Eligibility Verification	I-9		
12,000,000	FTC	Fair Packaging & Labeling Act Regulation			
11,726,328	Treas./IRS	Certain Government Qualified State Tuition Program Payments	1099-G		
11,579,711	Treasury	Financial Recordkeeping & Reporting of Currency & Foreign Financial Accounts			



Burden Hours	Agency	Paperwork Title	Agency Form No.	Date of Last Substantive Revision	No. of Burden Hours Reduced
10,800,000	SEC	Confirmation of Securities Transactions			
10,744,188	Treas./IRS	Estimated Tax for Corporations	1120-W		
10,533,968	Treas./IRS	Return of Private Foundation or Nonexempt Certain Excise Taxes on Charities			
10,457,200	Treas./IRS	Application for Determination of Employee Benefit Plan			
10,400,000	Treas./IRS	Expenses for Business Use of Your Home	8829		
10,369,761	Treas./IRS	Amended US Individual Income Tax Return	1040X		
10,128,562	Education	Federal Family Education Loan (FEL) Program			
10,101,684	procurement	Cost or Pricing Data Exemption Information			